EX PARTE FILING

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	**)**	
	)	
2000 Biennial Regulatory Review --	**)**	
of the Accounting Requirements and	**)**	**CC Docket No. 00-199**
Armis Reporting Requirements for	**)**	
Incumbent Local Exchange Carriers:	**)**	
Phase 2 and Phase 3	**)**	
	)	

COMMENTS OF THE NORTH CAROLINA
UTILITIES COMMISSION - PUBLIC STAFF

Pursuant to Sections 1.49, 1.415, and 1.419 of the Federal Communications Commission's ("FCC" or "Commission") Rules of Practice and Procedures, 47 C.F.R. Section 1.49, 1.415, and 1.419 (1998), the North Carolina Utilities Commission – Public Staff (NCUC - PUBLIC STAFF) respectfully submits these comments on the FCC's Notice of Proposed Rulemaking adopted October 12, 2000, and released October 18, 2000 [FCC 00-364] ("NPRM").

I. INTEREST OF THE NCUC - PUBLIC STAFF

The NCUC - PUBLIC STAFF is an independent governmental agency charged with the duty and responsibility of representing the using and consuming public in proceedings before the North Carolina Utilities Commission. The North Carolina Utilities Commission (NCUC) is a state regulatory body that regulates the incumbent local exchange carriers (ILECs) within the State of North Carolina. The NCUC – PUBLIC STAFF provides advice and assistance to the NCUC in fulfilling its obligation to assure that telecommunications services and facilities required by the public convenience and necessity are established, and that services are furnished at rates that are just and reasonable. Because of the potential impact of the NPRM on the ability of the NCUC to effectively regulate the telecommunications companies under its jurisdiction, the NCUC-PUBLIC STAFF has an interest in this proceeding.

II. BACKGROUND

In this NPRM, the FCC continues a comprehensive review of its accounting rules and reporting requirements. The NPRM seeks comment regarding FCC proposals to further streamline accounting and reporting requirements as the telecommunications industry moves towards a more competitive environment. The proposals include elimination of one-fourth of the Class A accounts in the FCC's Part 32 Uniform System of Accounts ("USOA") and modification of the FCC's affiliate transaction requirements. The FCC's streamlining proposals for the largest ILECs generally encompass the elimination of 77 of 296 Class A accounts and elimination of related accounting aspects of ARMIS and data that are considered less useful and/or obsolete in a competitive environment.

Additionally, the NPRM seeks comment regarding whether the FCC should adopt the United States Telephone Association's ("USTA") proposal to further streamline the accounting and ARMIS requirements by eliminating Class A accounting altogether, eliminating forecasts for use in allocating joint costs between regulated and nonregulated activities, and eliminating the majority of the ARMIS reports including all state-by-state reporting requirements. Moreover, the NPRM seeks comment regarding whether certain accounts suggested by states should be added to reflect recent changes in technologies and regulatory requirements.

III. DISCUSSION

The NCUC - PUBLIC STAFF appreciates the opportunity to offer comments on this NPRM. In general, the NCUC - PUBLIC STAFF supports the FCC's efforts to simplify and streamline its accounting and reporting requirements and certainly agrees with the elimination of any overlap of federal and state reporting requirements, as well as elimination of unnecessary reporting requirements. However, we have several concerns.

Part 32 Accounting Rules - Chart of Accounts

The NCUC - PUBLIC STAFF does not believe that the USTA proposal to eliminate Class A accounting requirements is in the public interest. The loss of the detail provided in Class A accounting requirements would undermine our ability to understand the nature of the ILECs' revenues and costs. Under Class B accounting, almost nothing would be known about these revenues and costs. In view of the advances in data processing technology that have occurred in recent years, the NCUC - PUBLIC STAFF is unimpressed by USTA's argument that Class A accounting requirements are too burdensome. It is worth noting that most of the small ILECs regulated by the NCUC use the Class A accounting system. We strongly urge the FCC to reject the USTA proposal to eliminate the Class A accounting requirements.

Instead, the NCUC - PUBLIC STAFF believes that the FCC should pursue revising the current accounting system to incorporate the many significant changes in industry structure, regulation and technology that have occurred in recent years. Such a revision should be targeted towards providing regulators with meaningful accounting information on the ILECs' operations. Consistent with the ongoing implementation of local competition, new accounts should be established to recognize revenues and costs for items such as unbundled network elements (UNEs), collocated facilities, interconnection agreements, reciprocal compensation, and universal service fund transactions. In addition, new accounts should be established to recognize meaningful subcategories of digital electronic switches and cable and wire facilities. Other less useful accounts, such as many of those proposed for elimination by the FCC (see NPRM, Appendix 3), could be eliminated and/or combined. A revised accounting system would enable regulators to continue to understand the nature of the investment by ILECs and ensure that prices are reflective of their actual costs. Moreover, such information will enable regulators to monitor issues such as the deployment of new technologies, collocation of facilities, and interconnection cooperation.

Adoption of the USTA proposal, on the other hand, would undermine the value of uniform accounting requirements to both state regulators and the ILECs, inasmuch as state regulators would be forced to implement separate requirements that differ significantly from the FCC in order to fulfill their obligations in the current environment.

Cost Allocations

The NCUC - PUBLIC STAFF opposes the proposal to eliminate the requirement to use forecasts in allocating joint investments between the ILECs' regulated operations and nonregulated 'upstart' (or new) operations. We believe such elimination would result in the over allocation of nonregulated costs to the ILECs' regulated operations. The markets for ILECs' regulated activities are large, well-established and mature, while the nonregulated activities, subject to the 'forecast use' rule, are new 'upstart' activities and in their infancy. These new upstart activities are generally activities where the potential for robust competition is greatest. If ILECs have the ability to shift the costs of these new service offerings to their regulated activities, competition for these new upstart services will be seriously undermined. The forecast use rule, which is based on the cost causative principle, is critical for allocating costs fairly here because forecast use provides the best measure of the new services' intended use. As ILECs make investments aimed at increasing their revenues in new 'upstart' nonregulated activities, it is important to use forecasts so that the appropriate 'use' of the new assets is properly assigned to the ILECs' nonregulated activities; otherwise the ILECs would be able to allocate almost all of the new investments to the regulated operations for many years even though the investments are being made primarily to develop their newer, nonregulated activities.

Affiliate Transactions

The USTA also proposes that the threshold for business conducted by an ILEC affiliate with nonaffiliates be reduced from 50 percent to 25 percent for the purpose of using the prevailing price in valuing affiliate transactions. Thus, under the USTA proposal, an affiliate such as a supply company could conduct up to 75 percent of its business with the ILEC and charge the prevailing price. However, logic presumes that if over 50 percent of the affiliate's sales are to the ILEC, the affiliate exists primarily to serve the ILEC. Consequently, the current 50 percent threshold properly recognizes the relationship. The NCUC - PUBLIC STAFF therefore recommends that the current 50 percent threshold requirement continue.

State-by-State ARMIS Reporting Requirements for Mid-Sized ILECs

The NCUC – PUBLIC STAFF opposes the USTA proposal to eliminate state-by-state ARMIS information for mid-sized ILECs. ARMIS was designed to accommodate the needs of both FCC and state regulators. Elimination of the state information would seriously undermine the usefulness of any ARMIS to the NCUC – PUBLIC STAFF. In addition, because the ILECS are required by most states to maintain this data on a state basis, no burden is placed on the ILEC to maintain the state data; the only burden is to report the data, which we believe is minimal.

Revenue Threshold for ARMIS Reporting by ILECs

The FCC has recently reduced the accounting and reporting requirements for mid-size ILECs by allowing them to report on a Class B level. These streamlining measures, along with the additional Class A reporting reform measures and the proposed increase in the revenue threshold to $200 million proposed in the instant NPRM, appear to be more than adequate relief measures for mid-size ILECs at this time. The NCUC - PUBLIC STAFF believes that the current reporting threshold is reasonable and that no further reduction should be implemented.

ARMIS Data on Network Infrastructure

The NCUC - PUBLIC STAFF fully supports the proposal to eliminate the collection of obsolete data and to update the ARMIS reports to obtain information on new technologies (upgrades and investments in switching and transmission capacity) that are critical components of the ILECs' network infrastructures. The information that the FCC proposes to collect is basic to the responsibility of the FCC and state regulators to assure the integrity of the telecommunications network and should impose minimal burden on the ILECs. The elimination of data (approximately half of what is collected today) will further ease the data collection burden on the ILECs.

IV. CONCLUSION

In conclusion, while the NCUC - PUBLIC STAFF supports the FCC's continued efforts to streamline accounting and reporting requirements, we take issue with several of the proposals. First, the proposal to eliminate Class A accounting requirements will result in a lack of detailed data for accounts that comprise the major portion of the ILECs' investment (outside plant cable accounts, switching, and circuit). This will, in turn, would make it more difficult for regulators to understand the nature of the ILECs' revenues and costs. Instead, we believe that the FCC should pursue revising the current accounting system to incorporate the many significant changes in industry structure, regulation, and technology that have occurred in recent years. Adoption of the USTA proposal, on the other hand, would undermine the value of uniform accounting requirements to both state regulators and the ILECs, inasmuch as state regulators would be forced to implement separate requirements that differ significantly from the FCC in order to fulfill their obligations in the current environment.

Second, we do not support the proposals regarding cost allocations. The forecast use rule is critical for allocating costs fairly between the ILECs' regulated operations and the nonregulated 'startup' operations because it is based on the cost causative principle. Elimination of this rule could result in the ILECs' allocating virtually all of the new investments to the regulated operations even though the investments are being made primarily to develop the new, nonregulated activities.

Additionally, we do not support the proposed changes to the affiliated transaction requirements. We believe the FCC's current 50 percent threshold for use of prevailing price in valuing affiliate transactions recognizes that the affiliate exists to serve the ILEC. Accordingly, a decrease in the threshold makes little sense.

Finally, the NCUC - PUBLIC STAFF supports the FCC's proposal to eliminate the collection of obsolete data and to update its ARMIS reports to obtain information on new technologies that are critical components of the ILECs network infrastructure, but we oppose the USTA proposals to eliminate state-by-state ARMIS reporting requirements and to reduce the ARMIS reporting threshold. The ARMIS accounting data and information is an excellent resource of information on revenues, costs, and network infrastructure investments that is useful for many policy-making purposes. We believe that the FCC proposed changes to ARMIS produce a reasonable reduction in the reporting burden for ILECs without seriously inhibiting the usefulness of the ARMIS reports.

Respectfully Submitted,

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